



STAFF REPORT ACTION REQUIRED

Request for a Fence Exemption to the Toronto Municipal Code, Chapter 447-Fences at 28 Hampton Park Crescent

Date:	September 24, 2009
To:	Toronto and East York Community Council
From:	Municipal Licensing and Standards Division, Toronto and East York District
Wards:	Ward 29 – Toronto – Danforth
Reference Number:	IBMS No. 09-137754

SUMMARY

This staff report is about a matter for which the Toronto and East York Community Council has delegated authority from City Council to make a final decision. The applicant, being the property owner is seeking an exemption to the provisions of the City of Toronto Municipal Code, Chapter 447 Fences, Section 447-2(B), to permit a proposed wooden fence, in the rear and east side yard, to exceed the maximum allowable height. The Fence By-law provides that a fence in the rear or side yard area can be constructed to a height of 2 metres.

The proposed wooden fences are to be installed at the grade of a proposed reconstructed retaining wall and while the actual wooden fences will not be exceeding a height of 2 metres consideration of a change in grade between the high and low sides must be factored in when calculating the effective fence height. In determining fence height where there is a grade change within 1 metre on either side of the subject fence the average height is used as a base for determining overall fence height.

In this instance the proposed retaining wall reconstruction on the south side of the rear yard will be consistent at a height of 1.2 metres which when combined by including half the retaining wall height equal to .6 metres will effectively establish a fence height of 2.6 metres and will be 27.93 metres in length.(see Attachments 1 and 1a).

The proposed reconstructed retaining wall on the east side yard will range in height from 1.2 metres to .8 metres which establishes an effective height when the average grade differential of the retaining wall is factored in of 2.6 to 2.4 metres for a length of 19.5 metres.(see Attachments 2 and 2a).

The proposed reconstruction of the retaining wall along the north side of the side yard will range in height from 1.2 metres to grade at the wall of the house, which establishes an effective height of up to 2.6 metres for a length of 5.8 metres (see Attachments 3 and 3a). A site plan has been provided which shows the orientation of the fenced area of the rear and side yard (see Attachment 4).

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the Toronto and East York Community Council not grant the fence exemption for 28 Hampton Park Crescent.

Financial Impact

There is no financial impact anticipated in this report.

DECISION HISTORY

The Fence By-law provides that a fence in the rear and side yard areas can be constructed to a height of 2 metres. The rear and side yard fences at the subject property will be constructed to a height ranging to a maximum 2.6 metres which exceeds the maximum height of the Fence By-law.

ISSUE BACKGROUND

The Municipal Licensing and Standards Division received an application for an exemption from the Fence by-law. The stated purpose for constructing the retaining wall/fence at the proposed height is to reduce the slope to level off the rear and side yard areas. In addition the proposed height of the fences will provide both a buffering of noise and a view of the Bayview extension. A number of letters of support from area residents accompanied the Fence Exemption application.

COMMENTS

The City of Toronto Council enacted the amalgamated By-Law 472-2000 on July 6, 2000 to prescribe the height and description of fences on private property and to require owners of privately owned outdoor swimming pools to erect and maintain safety fences and gates around private swimming pools. This By-Law and the amendments are now found in the Toronto Municipal Code, Chapter 447 - Fences. The City of Toronto Municipal Code, Chapter 447 Fences, Section 447-2(B), provides that the maximum permitted height of a fence in the rear yard should not exceed 2 metres in height.

Should the request for an exemption be approved, a condition of approval should include that when the fence is replaced it should be constructed in compliance with Toronto Municipal Code, Chapter 447-Fences or its successor bylaw.

CONTACT

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SIGNATURE

Elizabeth Glibbery, Manager
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ATTACHMENTS

1. Photograph of north fence
 - 1a. Sketch of proposed north fence
2. Photograph of east fence
 - 2a. Sketch of proposed east fence
3. Photograph of south fence
 - 3a. Sketch of proposed north fence
4. Site Plan